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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/857,333	09/17/2001	Nigel C. Phillips	028110141US	3284
23370	7590	02/13/2004	EXAMINER	
JOHN S. PRATT, ESQ KILPATRICK STOCKTON, LLP 1100 PEACHTREE STREET SUITE 2800 ATLANTA, GA 30309			ANGELL, JON E	
			ART UNIT	PAPER NUMBER
			1635	
DATE MAILED: 02/13/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/857,333

Applicant(s)

PHILLIPS ET AL.

Examiner

J. Eric Angell

Art Unit

1635

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 08 December 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☒ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 1,2,11-14 and 16-27.

Claim(s) withdrawn from consideration: _____.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☒ Other: See Continuation Sheet

J. Eric Angell

Continuation of 2. NOTE: It is noted that applicants indicate that they believe the rejection of claims 1, 11, 13, 16, 18, 20, 22, 24 and 26 under 35 USC 1st paragraph for not being fully enabled because the claims are drawn to methods of treating inflammation, not preventing inflammation (see page 6 of the response). However, as indicated in the Final rejection, claims 1, 11, 13, 16, 18, 20, 22, 24 and 26 are drawn to methods of treating inflammation which encompasses not just reducing the inhibition, but also preventing any further occurrence of inflammation (see page 4 of the Final Office Action). Therefore, the rejection is appropriate for claims 1, 11, 13, 16, 18, 20, 22, 24 and 26. With respect to the proposed claims amendments, the proposed amendments to claim 2, 17 and 23 would require further consideration and/or search because the proposed amended claims would encompass (claim 2) a method for reducing inflammation in an animal comprising administering to the animal at risk of experiencing inflammation; and (claims 17 and 23) a method for reducing inflammation in an animal comprising administering to the animal a composition. Proposed claim 2 would require further consideration with respect to 35 USC 112, first and second paragraph (possible new matter and antecedent basis for "the animal at risk of experiencing inflammation"). Proposed claim 17 and 23 would require further search and consideration because the claims are drawn to reducing inflammation in an animal, which encompasses reducing inflammation in an animal that does not have inflammation. It is noted that a previous Office Action indicated that the claims would be enabled for reducing inflammation in an animal having inflammation. However, the proposed claims 17 and 23 are not limited to reducing inflammation in an animal having inflammation. Therefore, further search and considerations would be required for the proposed claims 17 and 23.

Continuation of 5. does NOT place the application in condition for allowance because: Applicants request for reconsideration are based on the newly proposed/amended claims. It is noted that the proposed claim amendments are not entered for the reasons set forth herein.

Continuation of 10. Other: It is also respectfully pointed out that claim 23 appears to be mis-labelled as "(Previously Presented)". The submitted claim 23 includes the striking of the term "preventing" and the addition of the term "treating" in lines 1 and 5. Therefore, it appears that claim 23 should be labelled "(Currently Amended)". In order for any response to be considered responsive, all claims must be properly labelled, otherwise it is unclear if the claim is intended to be as amended or as previously presented. .



DAVE T. NGUYEN
PRIMARY EXAMINER